



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

APR 15 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Dana, Managing Partner/Co-Owner
American Shipyard Co., LLC
1 Washington Street
Newport, RI 02840-1566

**URGENT LEGAL MATTER
REQUIRES PROMPT RESPONSE**

Re: Clean Air Act Reporting Requirement

Dear Mr. Dana:

The United States Environmental Protection Agency ("EPA") is evaluating whether American Shipyard Co., LLC's ("American Shipyard") operations are subject to and in compliance with the Clean Air Act ("CAA or Act") and requirements promulgated under the Act, including but not limited to the Rhode Island State Implementation Plan, the federal National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) (the "Shipbuilding NESHAP") found at 40 CFR Part 63, Subpart II, and the federal National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing (the "Boat Manufacturing NESHAP") found at 40 CFR Part 63, Subpart VVVV.

Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), gives EPA the authority to require any person who owns or operates any emission source to establish and maintain records, make reports, sample emissions, and provide such other information as may reasonably be required to enable EPA to determine whether a Facility is in compliance with the Act, including the Rhode Island State Implementation Plan, the Shipbuilding NESHAP, and the Boat Manufacturing NESHAP.

This Reporting Requirement requires American Shipyard to provide the information listed in each numbered paragraph below within 45 days of receipt of this letter. The term "coating" as used here refers to paints and other materials such as paint thinners, cleaners, solvents, fairing compounds, and adhesives used on vessels. The term "ship" shall be as defined in 40 CFR Part 63, Subpart II.¹ If American Shipyard does not possess any or all of the records or documents

¹ Ship means any marine or fresh-water vessel used for military or commercial operations, including self-propelled vessels, those propelled by other craft (barges), and navigational aids (buoys). This definition

that respond to a specific request below, American Shipyard shall state in writing that no such records or documents exist, and explain why. Where possible provide responses to the following questions in an electronic spreadsheet, in Excel or compatible format.

1. Provide the following information about American Shipyard:
 - a. Describe the ownership and business structure;
 - b. Indicate the date and state of incorporation;
 - c. List any partners or corporate officers;
 - d. List any parent and subsidiary corporations and any related business entities;
 - e. Indicate the number of employees currently employed by American Shipyard; and
 - f. Indicate the company's net worth (if not available, indicate gross annual receipts).
2. Provide the date on which American Shipyard began surface coating operations at 1 Washington St., Newport, Rhode Island (the "Facility").
3. From 1998 to the present, provide the dates on which any physical changes were made to the Facility that could affect volatile organic compound ("VOC"), hazardous air pollutant ("HAP"), and volatile organic hazardous air pollutant ("VOHAP") emissions (e.g., the addition of spray guns, the construction of docks, the construction of a paint room or rooms, or the addition of lighting and/or heating to structures in which surface coating of vessels or vessel parts is performed).
4. For the approximately five acres of the Facility, provide:
 - a. The name and a description of each building or other structure, including but not limited to, any dry docks, spray booths, and painting areas at the Facility;
 - b. For the time period from the date that American Shipyard's transfer of ownership to the current owner(s) occurred to the present, the date, if applicable, that actual construction began on each building or other structure at the Facility;
 - c. A description of the activities that are conducted within each building or other structure, including, but not limited to, surface coating operations;

includes, but is not limited to, all military and Coast Guard vessels, commercial cargo and passenger (cruise) ships, ferries, barges, tankers, container ships, patrol and pilot boats, and dredges. For purposes of this subpart, pleasure crafts and offshore oil and gas drilling platforms are not considered ships. 40 CFR §63.782.

- d. A description and the specific location of any and all activities, including but not limited to, surface coating operations, that are conducted outside of any building or other structure;
 - e. A description of any heating, ventilation, air conditioning system, and any particulate or other type of air pollution control system employed; and
 - f. A current diagram of the Facility.
- 5. State whether American Shipyard has applied, or applies, coatings to any ship.
 - 6. State whether American Shipyard has manufactured or manufactures hulls or decks of ships and/or boats. If so, identify the type of vessel and the primary manufacturing materials used (e.g., ship, pleasure craft, of fiberglass, or aluminum, etc.).
 - 7. State whether American Shipyard applies, or has applied, coatings to any other type of boat or vessel not identified in Paragraph 5, above. If so, describe the type(s) of boat or vessel including its primary use.
 - 8. State whether American Shipyard applies, or has applied, coatings to any structure, part, or piece of a ship, boat or other vessel, that is not attached to such vessel. If so, describe the type(s) of structure, part or piece and its primary use, and indicate how and where at the Facility such coatings are applied.
 - 9. Describe, if applicable, any and all grinding and sandblasting activities that occur at the Facility. Include in the description the locations of such activities, and any measures American Shipyard takes to minimize or control the emissions of particulates or other pollutants to the ambient air from such activities.
 - 10. For the time period from January 2006 to the present, for each ship, boat or other vessel serviced, built, constructed, and/or repaired by American Shipyard indicate:
 - a. The name of the ship, boat or other vessel;
 - b. The type of ship, boat or other vessel (e.g., military, commercial, pleasure craft);
 - c. The primary material of the ship, boat or other vessel (e.g., metal, wood, fiberglass);
 - d. The size of the ship, boat or other vessel and approximate coated surface area of the hull and topside of each, if applicable;
 - e. The type of work conducted (e.g., repair or surface coating); and

- f. Each type of coating used.
11. For the time period from January 2006 to the present:
- a. List each and every surface coating application method (e.g., brush, roll, spray gun, aerosol can) employed by American Shipyard, and the number of pieces of equipment used for each application method conducted at the Facility;
 - b. Estimate the percentage of coating applied from each method identified in response to Paragraph 11.a., above, in relation to the total amount of coating used for all methods combined;
 - c. Explain why different coating methods are used in different circumstances; and
 - d. Specify each and every building and/or department and/or other outside locations where the different coating operations occur at the Facility.
12. For the time period from January 2008 to the present, provide copies of all records American Shipyard retains that document monthly purchases for the Facility of any and all coatings. Also provide copies of all records American Shipyard retains that document monthly usage of any and all coatings for the time period from January 2008 to the present. Where possible, provide the information in an electronic spreadsheet, in Excel or a compatible format. Specifically, provide:
- a. Copies of all logs, invoices, purchase orders, or receipts relating to shipments of coatings;
 - b. Copies of the Material Safety Data Sheets, Environmental Data Sheets, Technical Specifications or any other information pertaining to the physical and chemical properties of the coatings, including but not limited to, VOC, HAP, and VOHAP content (e.g., in pounds of VOC, HAP, and VOHAP per gallon of coating);
 - c. The type of each coating using the categories specified in 40 CFR Part 63, Subpart II, Table 2, where applicable;
 - d. The amount of each coating purchased during each month (in gallons);
 - e. The amount of each coating applied during each month (in gallons) and its peak daily consumption;
 - f. Whether thinner was added to each coating prior to its application, and, if so, the amount added (in gallons, quarts, or pints as the case may be);

- g. The as-applied VOC and VOHAP content of each coating (e.g., the content of each coating taking into account any and all additives and thinners added to the as-purchased coatings); and
 - h. The location(s) at the Facility where the coatings were used.
- 13. For the time period from January 1998 to the present, provide monthly totals (in pounds) and annual totals (in pounds or tons) of VOC, HAP, and VOHAP emissions from all surface coating and other activities at the Facility. Explain any and all assumptions made in determining these monthly and annual totals.
- 14. For the time period from January 2008 to the present, identify the highest or peak amount of VOCs emitted in any one day (in pounds) from:
 - a. The coating of wood substrates;
 - b. The coating of fiberglass substrates;
 - c. The coating of metal substrates; and
 - d. All coating at the Facility.
- 15. State whether the Facility has emitted more than 15 pounds of VOCs in any one day from its surface coating of miscellaneous metal parts and products (this does not include the surface coating of assembled marine vessels). Provide representative dates and calculations supporting your response.
- 16. For each year from 1998 to the present:
 - a. Estimate the number of hours per day, days per week, and weeks per year American Shipyard applied coatings to ships, boats and other vessels, or any structure, part or piece of ships, boats and other vessels.
 - b. Explain the reasons for American Shipyard's current surface coating schedule.
 - c. Explain any physical or other limitations inherent in the Facility that would preclude American Shipyard from applying coatings 24 hours per day, 7 days per week, and 52 weeks per year.
 - d. Indicate, for the time period from 1998 to the present, the peak daily consumption of gallons of coatings at the Facility.
- 17. For the time period from January 1998 to the present, provide, for each spray gun used to apply coatings at the American Shipyard Facility:

- a. The manufacturer's name and model number;
 - b. The throughput capacity of the spray gun (in gallons per minute if possible);
 - c. The month and year the spray gun was purchased;
 - d. The month and year the spray gun was first used at the Facility; and
 - e. The month and year the spray gun was removed from the Facility or disposed of, if applicable.
18. For each year from 1998 to the present, provide the maximum number of spray guns used simultaneously at the Facility and provide the maximum number of spray guns located at the Facility at any one time.
19. For the time period from January 1998 to the present, provide, for each temporary or permanent spray booth at the Facility :
 - a. The date that actual construction began on the spray booth;
 - b. The date that actual construction was completed on the spray booth;
 - c. The date that any surface coating operations began in the spray booth;
 - d. A description of any air pollution control equipment or best management practices utilized to limit air pollution from the spray booth; and
 - e. Any and all documents related to the purchase and/or construction of the spray booth, including, but not limited to, contracts, invoices purchase orders, etc.
20. For the time period from January 1998 to the present, provide copies of all correspondence American Shipyard (or any of its predecessors) has had with state and/or federal environmental agencies regarding emissions of air pollution at the Facility, including, but not limited to, copies of:
 - a. All permit applications;
 - b. All permits issued; and
 - c. Any requests for permit modifications.

Submissions required by this letter shall be mailed to:

Susan Studlien, Director
Office of Environmental Stewardship
US Environmental Protection Agency, New England
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, Massachusetts 02109-3912
Attn: Tom McCusker, Air Technical Unit

And

Doug McVay, Acting Director
Office of Air Resources
Rhode Island Department of Environmental Management
235 Promenade Street, Room 230
Providence, RI 02908

Be aware that if American Shipyard does not provide the information in a timely manner, EPA may order it to comply and may assess monetary penalties under Section 113 of the Clean Air Act. Federal law also establishes criminal penalties for providing false information to EPA. This letter is not subject to Office of Management and Budget review pursuant to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

American Shipyard may, if desired, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. §2.203(b). Information subject to such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. Note that certain categories of information, such as emissions data, are not properly the subject of such a claim. If no such claim accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to American Shipyard. Please be aware that states may have different rules and regulations governing the protection of confidential business information.

If you have any questions regarding this reporting requirement, please contact Tom McCusker at (617) 918-1862, or have your attorney call Senior Enforcement Counsel, Thomas T. Olivier, at (617) 918-1737.

Sincerely,



Susan Studlien, Director
Office of Environmental Stewardship

cc: Doug McVay, RI DEM
Ted Burns, RI DEM

Information for Small Businesses

If you are small business as defined by the Small Business Administration (defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), below is information you may find helpful.

The United States Environmental Protection Agency (EPA) offers small businesses a wide variety of compliance assistance resources and tools designed to assist businesses to comply with federal and state environmental laws. These resources can help businesses understand their obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Websites

EPA offers a great deal of compliance assistance information and materials for small businesses on the following Websites, available through public libraries:

⇒ www.epa.gov	<i>EPA's Home Page</i>
⇒ www.smallbiz-enviroweb.org	<i>EPA's Small Business Home Page</i>
⇒ www.smallbiz-enviroweb.org/state.html	<i>List of State Contacts</i>
⇒ www.epa.gov/ttn/sbap	<i>Small Business Assistance Programs</i>
⇒ www.epa.gov/oeca/polguid/index.html	<i>Enforcement Policy and Guidance</i>
⇒ www.epa.gov/oeca/smbusi.html	<i>Small Business Policy</i>
⇒ www.epa.gov/oeca/oc	<i>Compliance Assistance Home Page</i>
⇒ www.epa.gov/oeca/ccsmd/commpull.html	<i>Small Businesses and Commercial Services</i>
⇒ www.epa.gov/oeca/ccsmd/mun.html	<i>Small Communities Policy</i>

Hotlines

EPA sponsors approximately 89 hotlines and clearinghouses that provide free and convenient avenues to obtain assistance with environmental requirements. EPA's Small Business Ombudsman Hotline can provide you with a list of all the hot lines and assist you with determining which hotline will best meet your needs. Key hotlines that may be of interest to you include:

⇒ EPA's Small Business Ombudsman.....	(800) 368-5888
⇒ RCRA/UST/CERCLA Hotline.....	(800) 424-9346
⇒ Toxics Substances and Asbestos Information.....	(202) 554-1404
⇒ Safe Drinking Water.....	(800) 426-4791
⇒ Stratospheric Ozone/CFC Information.....	(800) 296-1996
⇒ Clean Air Technical Center.....	(919) 541-0800
⇒ Wetlands Hotline.....	(800) 832-7828

Compliance Assistance Centers

EPA has established national compliance assistance centers, in partnership with industry, academic institutions, and other federal and state agencies, that provide on line and fax back assistance services in the following sectors heavily populated with small businesses:

- ⇒ Access to All Centers (www.epa.gov/oeca/mfcac.html)
- ⇒ Metal Finishing (1-800-AT-NMFRC or <http://www.nmfrc.org>)